REMARKS

Rejection of the Claims Under 35 U.S.C. §112, second paragraph

Claim 18 is rejected as allegedly indefinite. The Office Action alleges that the amendment "a bridging group of a monovalent radical" makes no sense and that the previous claim amendments garbled the claim.

The description on page 32, lines 7-10, states that "R_{41} is the monovalent radical of a chiral ditertiary diphosphine, the CO group being directly attached to a carbon or nitrogen atom of the diphosphine skeleton, or to an oxygen or nitrogen atom or to a carbon atom of a bridging group of the diphosphine skeleton." This is followed by exemplary bridging groups, each being divalent. What is meant by "bridging group of the diphosphine skeleton" is that there is a bridging group between CO and the diphosphine skeleton. The examples on pages 32 and 33 of the application make this even further clear that within the group $-C(O)-R_{41}$ for formula XLIII or of $-C(O)-R_{43}$ of subformula XLIIIa, the C atom is bound 1) either directly to a nitrogen of the given two five membered ring examples bearing the phosphine groups on page 31, in which case there is no bridging group, or 2) as in the remaining example on page 31, via a bridging group $-OCH_2-$ to the phosphine skeleton.

Additionally, a new claim is entered, which otherwise corresponds to claim 18, but further clarifies the above explicitly in said claim.

The Office Action rejects claim 43 for reciting "heterocycloaliphatic" as indefinite for being ambiguous.

This claim is amended by further clarifying that "heterocycloaliphatic means a cycloaliphatic radical in which one or more carbon atoms are each independently replaced by oxygen, sulfur, NH, or -N=." Support for this amendments is present in the specification page 12, paragraphs 1 and 3, especially when read together. Page 12, paragraph 1, of the application teaches that a "heterohydrocarbon radical may be ... heterocycloaliphatic radicals with 3 to 8, preferably 5 to 6 ring links ... the heteroradicals contain at least one heteroatom." Page 12, paragraph 3, of the application teaches that the "heterohydrocarbon radicals may for example be selected from ... C_2-C_7-heterocycloalkyl." One of ordinary skill in the art would understand this to mean that the ring contains 2-7 carbon atoms and at least on heteroatom to get to the 3 to 8 ring links of the heterocycloaliphatic radical.

Additionally, although not binding in the present case, applicants point to recently granted US 7,122,556, which recites the term "heterocycloaliphatic" in the claims and specification without detailed explanation of this term's meaning, but providing exemplary groups. This is further evidence that this term is understood by those of ordinary skill in the art, and is thus, not indefinite.

In the rejected claims regarding the meaning of "ditertiary diphosphine" the following clarifying amendments are made "~~ditertiary~~ diphosphine, having tertiary phosphine groups which contain two identical or different, unsubstituted or substituted, hydrocarbon radicals with 1 to 20 carbon atoms." Support for this amendment can be found, for example, on pages 19 and 23-27 of the specification.

Rejection of the Claims Under 35 U.S.C. §112, first paragraph

As suggested by the Examiner, the following amendment is made to claim 1 to overcome the rejection "phosphine ~~diphosphine~~."

Reconsideration is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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